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EXAMINER

LIN, JASON K

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/765,491		STEWART, CHRISTOPHER	
	Examiner		Art Unit	
	Jason K. Lin		2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 14-37 and 42-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 38-41, 49 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. **Claims 1-13, 38-41, 49, and 50**, drawn to interactive entertainment system, classified in class 725, subclass 63.
 - II. **Claims 14-37, and 42-48**, drawn to media file rating system, classified in class 725, subclass 28.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination requires components of a satellite tv distribution system as classified in 725/63 and does not require the particulars of the rating system of the subcombination as classified in 725/28. The subcombination has separate utility such as interactive media distribution based user preference and content rating.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in

Art Unit: 2621

accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Georgann S. Grunebach on November 1, 2006 a provisional election was made without traverse to prosecute the invention of **Group 2, claims 1-13, 38-41, 49, and 50**. Affirmation of this election must be made by applicant in replying to this Office action. Claims **14-37, 42-48** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claims

5. Claim 1 is objected to because of the following informalities: A plurality of entertainment files stored on "the database". Change "the database" to "the system database." A user input device, where said user input device enables a user to interact with the system server and "system database". Change "system database" to "the system database." Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-5, 8-13, 38-41, 49, and 50** are rejected under 35 U.S.C. 102(e) as being unpatentable by Connelly (US 2002/0194585).

Consider **claim 1**, Connelly clearly teaches an interactive entertainment system (Fig. 4A) comprising:

a system server (Broadcast Server 103A in Fig. 4A, able to send uplink signals to satellites as stated in paragraph 0044. Paragraph 0030 teaches that the server 103 is configured to broadcast a plurality of data files), said system server residing at a communication center (Broadcast Operations Center 126A in Fig. 4A, contains server and database as shown in Fig. 4A);

a system database (Paragraph 0034 discloses an embodiment of a machine that can be used for the server 103, that contains storage 211), said system database residing at the communication center and accessible by the system server (As taught in paragraph 0034, the storage 211 makes up part of the server 103, so it also resides within the communication center {broadcast center});

a plurality of entertainment files stored on the database (Paragraph 0030 teaches that the server 103 broadcasts data files that may be video, audio, graphics, text, multi-media, or audio/video files. As taught in paragraph 0034, the system shown in Fig. 2 may be used for the server. Therefore, the storage 211 contains the data files to be broadcasted), where the system server retrieves the plurality of entertainment files for transmission over a first communication network (satellite 130 in Fig. 4A);

a receiver (client systems 105A, 107A, 109A in Fig. 4A and as taught in paragraph 0034 may be set top boxes or desktop computer or workstations), where the receiver selectively retrieves the plurality of entertainment files (Paragraph 0064 teaches the client selectively stores data files according to a content rating table stored on the client system. So it selectively gets the data files) that via the first communication network from the system server based on a user's preferences (Paragraph 0065 teaches that the client determines whether to capture content depends on how the user rated and/or ranked the content);

a user input device (Paragraph 0037 teaches input/output device 217 can be a television remote, mouse, trackball...), where said user input device enables a user to interact with the system server and system database via the receiver (Paragraph 0107 teaches client demand feedback data 129 being sent back to the broadcast operations center as can be seen in Fig, 4A), where the user provides real time feedback regarding said entertainment files (Paragraph 0107

teaches real time rating feedback on content that can be manually entered by the user); and

a user output device (Display 219 in Fig. 2), where said output device plays selected entertainment files (Paragraph 0066 discloses user access to media. Paragraph 0034 teaches a system that may be used for clients containing a display 219 and audio output 231. These devices can be used to play media files).

Consider **claim 2, as applied to claim 1 above**, Connelly clearly teaches said plurality of entertainment files contain audio content (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 3, as applied to claim 1 above**, Connelly clearly teaches said plurality of entertainment files contain video content (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 4, as applied to claim 1 above**, Connelly clearly teaches said plurality of entertainment files contain both video and audio content (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 5, as applied to claim 2 above**, Connelly explicitly teaches said audio content includes songs (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such

as movies with moving images and sound. Paragraph 0066 teaches an example of “a user accessing a data file... listening to a particular song...” Showing that the audio files can also include songs).

Consider **claim 8, as applied to claim 4 above**, Connelly clearly teaches said video and audio content includes televised programming (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound. Paragraph 0069 teaches audio/video files can be movies or TV programming).

Consider **claim 9, as applied to claim 1 above**, Connelly teaches said reception device provides two way communications between the user and the system server via the first communication network (Paragraph 0055 teaches that “future satellite systems may provide bi-directional communications links, whereby the client demand feedback data can be sent back to the broadcast operations center...” The broadcast server 103A {systems server} is located in the broadcast operations center 126A).

Consider **claim 10, as applied to claim 1 above**, Connelly teaches said real time feedback is transmitted to the communication center via a second communication network (Paragraph 0055 teaches a telecommunications link that is used to send client demand feedback back to the broadcast operations center 126A. Telco Network 113A shown in Fig. 4A is separate from satellite communications system).

Consider **claim 11, as applied to claim 1 above**, Connelly teaches the first communication network is a satellite broadcasting system (Satellite 130, paragraph 0044 teaches "a broadcast operations center 126A sends uplink signal 128 to a satellite 130 via a ground station 132").

Consider **claim 12, as applied to claim 10 above**, Connelly teaches the second communication network is an internet connection (Paragraph 0032 teaches network 113 "may be any type of communications network..., but not limited to , the internet, a wide area network {'WAN'}...").

Consider **claim 13, as applied to claim 1 above**, Connelly teaches said reception device includes a user database (Paragraph 0038 teaches that the storage 211 contains "meta-data table, content rating table and a plurality of data files..." A database is defined as a collection of data and storage 211 contains a variety of data so it can be called a database as well).

Consider **claim 38**, Connelly teaches an entertainment system (Fig. 4A) that enables the selective transfer of entertainment files comprising (Paragraph 0064 teaches the client selectively stores data files according to a content rating table stored on the client system. So it selectively gets the data files that are presented to the user):

a system server (Broadcast Server 103A in Fig. 4A, able to send uplink signals to satellites as stated in paragraph 0044. Paragraph 0030 teaches that the server 103 is configured to broadcast a plurality of data files), said system

server residing at a communication center (Broadcast Operations Center 126A in Fig. 4A, contains server and database as shown in Fig. 4A);

a system database (Paragraph 0034 discloses an embodiment of a machine that can be used for the server 103, that contains storage 211), said system database residing at the communication center and accessible by the system server (As taught in paragraph 0034, the storage 211 makes up part of the server 103, so it also resides within the communication center {broadcast center});

a plurality of entertainment files stored on the database (Paragraph 0030 teaches that the server 103 broadcasts data files that may be video, audio, graphics, text, multi-media, or audio/video files. As taught in paragraph 0034, the system shown in Fig. 2 may be used for the server. Therefore, the storage 211 contains the data files to be broadcasted), where the system server retrieves the plurality of entertainment files for transmission over a first communication network (satellite 130 in Fig. 4A);

a receiver (client systems 105A, 107A, 109A in Fig. 4A and as taught in paragraph 0034 may be set top boxes or desktop computer or workstations), where the receiver selectively retrieves the plurality of entertainment files (Paragraph 0064 teaches the client selectively stores data files according to a content rating table stored on the client system. So it selectively gets the data files) via the first communication network from the system server based a user's

Art Unit: 2621

preferences (Paragraph 0065 teaches that the client determines whether to capture content depends on how the user rated and/or ranked the content);

a user input device (Paragraph 0037 teaches input/output device 217 can be a television remote, mouse, trackball...); and

a user output device (Display 219 in Fig. 2), where the user utilizes the input device to initiate the transfer of selected entertainment files to said output device (Paragraph 0066 discloses user access to "include a user interacting with, viewing, watching, listening to, reading, consuming, or the like, a data file.

Paragraph 0034 teaches a system that may be used for clients containing a display 219 and audio output 231. These devices can be used to play media files. In order for the user to view, listen, or consume content these files must be retrieved and presented through the display or audio output. This would require the user to turn on the device via an input/output device 217, like that of devices taught in paragraph 0037).

Consider **claim 39, as applied to claim 38 above**, Connelly teaches further comprising the step of:

a. supplying audio content with each of the entertainment files (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 40, as applied to claim 38 above**, Connelly teaches further comprising the step of:

a. supplying audio and video content with each of the entertainment files (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 41, as applied to claim 38 above**, Connelly teaches further comprising the step of:

a. supplying video content with each of the entertainment files (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Consider **claim 49**, Connelly teaches a method of transmitting entertainment files (Paragraph 0030 teaches that data files {entertainment files} may be video, audio, graphics, text, multi-media, or audio/video files) through a receiver (client systems 105A, 107A, 109A in Fig. 4A and as taught in paragraph 0034 may be set top boxes or desktop computer or workstations) comprising the steps of:

a. transmitting a plurality of entertainment files (Paragraph 0030 teaches that the server 103 broadcasts data files that may be video, audio, graphics, text, multi-media, or audio/video files to be received by the clients 105, 107, and 109.) to the receiver via a first communications network (satellite 130 in Fig. 4A);

b. receiving the plurality of entertainment files through a data input (Paragraph 0034 teaches that the system shown in Fig. 2 can be used for the client. The system contains a communications interface 213 {data input} where data from the outside is received. Paragraph 0035 teaches that the

communications interface 213 allows the machine 201 to interface to external systems. Communications interface 213 is the only way the entertainment files can be received because as shown in Fig. 2 it is the only connection to the external network where entertainment files are transferred to the client);

c. storing the plurality of entertainment files in a database residing within the receiver (Paragraph 0068 teaches "plurality of data files may be stored and maintained in the client system in the memory 205, the storage 211,...");

d. selectively filtering the output of the entertainment files through a data output (Paragraph 0064 teaches "the client selectively stores data files according to a content rating table stored on the client system... There are various mechanisms that may be used to determine when a particular piece of content is captured and cached {i.e., store} on a given client system, and when other broadcasted content is ignored." Data files are thus filtered according to the rating table on the client's system), where the selective filtering is based upon filtering instructions with a software residing in the database (Paragraph 0064 teaches "the client selectively stores data files according to a content rating table stored on the client system..." Paragraph 0038 teaches "software may reside in the storage 211..." Paragraph 0038 teaches that the storage 211 contains "meta-data table, content rating table and a plurality of data files..." A database is defined as a collection of data and storage 211 contains a variety of data so it can be called a database as well);

e. executing the filtering instructions via a processor (Processor 203); and

f. receiving user commands via a user command input from a user input device (Paragraph 105 teaches a user can enter rating information via inputs like a keyboard, keypad, remote control, etc.)

Consider **claim 50, as applied to claim 49 above**, Connelly teaches wherein the plurality of entertainment files includes at least one of audio files, video files and audio/video files (Paragraph 0030 teaches that the data files may be video, audio, graphics, text, multi-media, or audio/video such as movies with moving images and sound).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 2621

10. **Claims 6 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Connelly (US 2002/0194585), and further in view of Stumphauzer, II (US 2003/0014767).

Consider **claim 6, as applied to claim 5 above**, Connelly does not explicitly teach said songs include a plurality of music genres.

In the same field of endeavor, Stumphauzer, II teaches distribution of media through a satellite network. Stumphauzer, II also teaches said songs include a plurality of music genres (Paragraph 0021 teaches many channels that contain "different genres, such as: country; Top; contemporary; classical; rhythm and blues...").

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Connelly to include a plurality of music genres of songs in order to satisfy the diverse listening preferences of different users.

Consider **claim 7, as applied to claim 6 above**, Connelly does not explicitly teach said plurality of music genres are categorized and streamed for listening through the user output device.

In the same field of endeavor, Stumphauzer, II teaches distribution of media through a satellite network. Stumphauzer, II also teaches said plurality of music genres are categorized and streamed for listening through the user output device (Paragraph 0028 teaches that a specific selection of songs could be "artists from the eighties, or baroque classical music." Paragraph 0029 teaches

music can be ranked with numbers, with the higher number taking precedence over the smaller one. As shown on Fig. 6, the plurality of music can be prioritized accord to rank selections 6070, thereby being categorized by rank).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Connelly to categorize and stream for listening the music genres to the user because it would provide the user with types of programming he wants to hear (See Stumphauzer, II, paragraph 0003).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pendakur discloses a rating content and providing categorized virtual channels enabling the use to select the "type" or "genre" of the content in US 2003/0135605. Broussard et al. discloses enabling a broadcaster to receive real-time feedback from the audience via a smart cable box in US 2003/0196198. Norman discloses two-way data communications between server and subscriber via an internet connection in US 2005/0149974. Powell et al. discloses a satellite communications center (first communications network) and a ground-based hub communications center (second communications network) in US 2003/0204851). Berenson et al. discloses a central preferences database in US 2003/0131355.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason K. Lin whose telephone number is (571)270-1446. The examiner can normally be reached on Mon-Fri, 7:30AM-5:00PM, EST.

Art Unit: 2621

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason Lin
11/09/2006



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